

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>LABORERS' PENSION FUND, et al.,</b>	)	
<b>Plaintiffs,</b>	)	<b>Case No. 09 C 4617</b>
<b>v.</b>	)	
<b>COMMERCIAL BRICK PAVING, INC., an</b>	)	<b>Judge Norgle</b>
<b>Illinois corporation, and JOHN BIEBRACH,</b>	)	
<b>individually,</b>	)	
<b>Defendant,</b>	)	
<b>and</b>	)	
<b>AMERICAN SNOW REMOVAL, INC.,</b>	)	
<b>Third Party Garnishee Respondent.</b>	)	

**PLAINTIFFS' MOTION FOR ENTRY OF CONDITIONAL JUDGMENT AND  
FOR RULE TO SHOW CAUSE**

NOW COME Plaintiffs Laborers' Pension Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity and James S. Jorgensen, Administrator of the Funds (hereinafter "Funds"), by and through their attorney, Patrick T. Wallace, and hereby move this Court to issue a conditional judgment in the amount of \$165,872.27 against Third Party Garnishee Respondent American Snow Removal, Inc. ("American Snow Removal") for failure to comply with an outstanding Wage Deduction Order entered by the Court on May 24, 2012 and setting a Return on Rule to Show Cause to convert the conditional judgment into a final judgment. In support of this Motion, Plaintiffs' state as follows:

1. The Funds obtained a judgment against Defendant John Biebrach jointly and severally with Commercial Brick Paving, Inc. in the amount of \$169,022.27 on September 3, 2010.
2. A Garnishment Notice was issued against American Snow Removal on April 3, 2012.

3. American Snow Removal responded advising that John Biebrach was a commissioned employee but that no current commissions were due. Plaintiffs then filed a Motion for Wage Deduction Order which was granted by the Court on May 24, 2012. A copy of the Court's May 24, 2012 Wage Deduction Order is attached hereto as Exhibit A.

4. Plaintiffs have forwarded the Wage Deduction Order to American Snow Removal on two (2) occasions and have received no response regarding whether John Biebrach has earned any commissions or if any monies are owed. True and accurate copies of the letters forwarding the Wage Deduction Order to American Snow Removal are attached hereto as Exhibits B and C.

5. Accordingly, pursuant to 735 ILCS 5/12-807(a), Plaintiffs respectfully request that this Court enter a conditional judgment against Third Party Garnishee Respondent American Snow Removal, Inc. entering conditional judgment in favor of the Funds and against American Snow Removal, Inc. in the amount of \$165,872.27, plus post-judgment interest, representing the remaining balance due on the judgment. Plaintiffs also request that this Court enter an Order directing American Snow Removal, Inc. to appear by and through its President, William Holloway, and show cause why the Company should not be held in contempt not less than twenty-one (21) days nor more than thirty (30) days after the date of the issuance of the Order for Rule To Show Cause, in accordance with 735 ILCS 5/12-807(a). Further, Plaintiffs respectfully request that in the event that American Snow Removal, Inc. fails to appear and show cause why it should not be held in contempt, that this Court enter final judgment in favor of the Funds and against American Snow Removal, Inc. in the amount of \$165,872.27, plus post-judgment interest and Plaintiffs' reasonable attorneys' fees and expenses in accordance with 735 ILCS 5/12-807(b).

WHEREFORE, Plaintiffs respectfully request that this Court enter conditional judgment in favor of the Funds and against American Snow Removal, Inc. in the amount of \$165,872.27 plus post-judgment interest. Plaintiffs further request that this Court enter an Order directing American Snow Removal, Inc. to appear by and through its President, William Holloway, and show cause why the Company should not be held in contempt not less than twenty-one (21) days nor more than thirty (30) days after the date of the issuance of the Order for Rule To Show Cause, in accordance with 735 ILCS 5/12-807(a). Further, Plaintiffs respectfully request that in the event that American Snow Removal, Inc. fails to appear and show cause why it should not be held in contempt, that this Court enter final judgment in favor of the Funds and against American Snow Removal, Inc. in the amount of \$165,872.27 plus post-judgment interest and Plaintiffs' reasonable attorneys' fees and expenses in accordance with 735 ILCS 5/12-807(b).

Respectfully submitted,

October 12, 2012

Laborers' Pension Fund, et al.

By: /s/Patrick T. Wallace

Office of Fund Counsel  
111 W. Jackson Blvd., Suite 1415  
Chicago, IL 60604  
(312) 692-1540/(312) 692-1489 (fax)

**CERTIFICATE OF SERVICE**

The undersigned certifies that he caused a copy of the foregoing Motion for Entry of Conditional Judgment and for Rule to Show Cause to be served upon the following persons via mail this 12<sup>th</sup> day of October 2012.

Commercial Brick Paving, Inc.  
c/o James Kimont, Registered Agent  
825 Seegers Road  
Des Plaines, IL 60016

John Biebrach  
3460 MERLE LANE  
NORTHBROOK, IL 60062

American Snow Removal, Inc.  
c/o Alan S. Levin, Registered Agent  
205 W. Randolph St., Suite 1030  
Chicago, IL 60606

Courtesy Copy:  
Todd A. Miller  
Allocco, Miller & Cahill  
3409 N. Paulina  
Chicago, IL 60657

/s/ Patrick T. Wallace

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LABORERS' PENSION FUND, et al.,  
Plaintiffs,

v.

COMMERCIAL BRICK PAVING, INC., an  
Illinois corporation, and JOHN BIEBRACH,  
Individually,

Defendants,

and

AMERICAN SNOW REMOVAL, INC.,  
Third Party Garnishee Respondent.

Case No. 09 C 4617

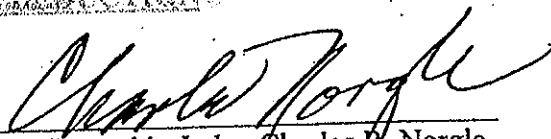
Judge Norgle

ORDER – WAGE DEDUCTION

This matter having come to be heard by the Court on the Plaintiffs' Motion for Wage Deduction Order, due notice having been given, IT IS HEREBY ORDERED:

1. That Garnishee Respondent American Snow Removal, Inc. is directed to withhold and turn over wages from John Biebrach remitting those funds to Patrick T. Wallace, counsel for the Funds at 111 W. Jackson Blvd., Suite 1415, Chicago, IL 60604 on a monthly basis in accordance with 735 ILCS 5/12-808(e) until the judgment is satisfied or until a "terminating event" occurs as defined in 735 ILCS 5/12-808(b).

ENTER:

  
The Honorable Judge Charles E. Norgle  
United States District Court Judge

Dated: 5/24/2012

EXHIBIT

A

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles R. Norgle	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	09 C 4617	DATE	5/24/2012
CASE TITLE	LABORERS' PENSION FUND, et al. vs. COMMERCIAL BRICK PAVING, INC.		

## DOCKET ENTRY TEXT

Enter Order-Wage Deduction.

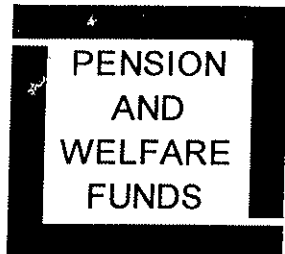
■ [ For further detail see separate order(s).]

Docketing to mail notices.

FILED  
2012 MAY 24 PM 4:19  
SECOND  
U.S. DISTRICT COURT

Courtroom Deputy  
Initials:

EF



**LABORERS' PENSION FUND and HEALTH and WELFARE  
DEPARTMENT of the CONSTRUCTION and GENERAL  
LABORERS' DISTRICT COUNCIL of CHICAGO and VICINITY**

MAIN OFFICE  
11465 CERMAK ROAD  
WESTCHESTER, ILLINOIS 60154-5768  
Telephone: (708) 562-0200  
www.chicagolaborersfunds.com

CHICAGO OFFICE  
111 W. JACKSON BLVD., SUITE 1415  
CHICAGO, ILLINOIS 60604-3868  
Telephone: (312) 692-1540  
Fax: (312) 692-1489

*From the Office of Fund Counsel*

July 11, 2012

American Snow Removal, Inc.  
c/o Alan S. Levin, Registered Agent  
205 W. Randolph St., Suite 1030  
Chicago, IL 60606

American Snow Removal, Inc.  
825 Seegers Road  
Des Plaines, IL 60016

**FILE COPY**

**BOARD OF TRUSTEES**

*Administrator*  
JAMES S. JORGENSEN

*Secretary*  
RICHARD E. GRABOWSKI

**PENSION FUND**

*For Labor*  
JOSEPH COCONATO  
JAMES P. CONNOLLY  
PAUL P. CONNOLLY  
CHARLES V. LOVERDE, III  
LARRY WRIGHT

*For Employers*  
ROBERT A. BOHAC  
RICHARD E. GRABOWSKI  
CLIFTON M. HORN  
ROBERT G. KRUG  
DAVID H. LORIG  
GARY LUNDSBERG

**WELFARE FUND**

*For Labor*  
ANTONIO S. CASTRO  
JAMES P. CONNOLLY  
MARTIN T. FLANAGAN  
RICHARD KUCZKOWSKI  
CHARLES V. LOVERDE, III  
SCOTT PAVLIS

*For Employers*  
JULIE CHAMBERLIN  
CHARLES J. GALLAGHER  
RICHARD E. GRABOWSKI  
CLIFTON M. HORN  
DAVID H. LORIG  
DENNIS P. MARTIN

Re: *Laborers' Pension and Welfare v. Commercial Brick Paving,  
Inc., and John Biebrach*  
Case No.: 09 C 4617

Dear Sir or Madam:

Enclosed please find another copy of the Order for Wage Deduction that was forwarded to you on May 31, 2012. You have an obligation under 735 ILCS 5/12-808 to periodically report and turn over funds withheld pursuant to the entry of a Deduction Order on a monthly basis (see 735 ILCS 5/12-808(e)). Demand is hereby made upon you to advise whether you have withheld any monies due to Mr. Biebrach since the entry of the Wage Deduction Order for wages or commissions earned and to remit the same in a check made payable to the "Laborers' Pension and Welfare Funds." Please respond to this letter as soon as possible and, in any event, no later than Friday, July 20, 2012 or I will file a Motion for the Entry of Conditional Judgment against American Snow Removal, Inc. for the balance of the judgment due from Mr. Biebrach.

Very truly yours,

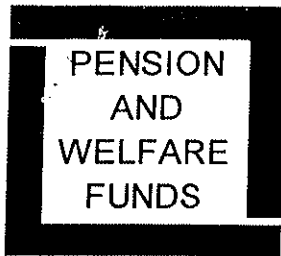
LABORERS' PENSION AND WELFARE FUNDS  
*Patrick T. Wallace*

Patrick T. Wallace  
PTW/kt  
Encl.



**EMPLOYER PARTICIPANTS -**

Builders' Association, Employing Plasterers' Association, Underground Contractors' Association, Mason Contractors' Association, Concrete Contractors' Association, Wrecking Contractors, Concrete Products Employers, Lake County Illinois Employers, Illinois Road Builders Association, Bridge and Highway Structural Builders; i.e. all those who employ Laborers Engaged in the Building and Construction Industry.



**LABORERS' PENSION FUND and HEALTH and WELFARE  
DEPARTMENT of the CONSTRUCTION and GENERAL  
LABORERS' DISTRICT COUNCIL of CHICAGO and VICINITY**

MAIN OFFICE  
11465 CERMAK ROAD  
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Telephone: (312) 692-1540  
Fax: (312) 692-1489

*From the Office of Fund Counsel*

May 31, 2012

**FILE COPY**

**BOARD OF TRUSTEES**

*Administrator*  
JAMES S. JORGENSEN

*Secretary*  
RICHARD E. GRABOWSKI

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ROBERT A. BOHAC  
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DENNIS P. MARTIN

American Snow Removal, Inc.  
c/o Alan S. Levin, Registered Agent  
205 W. Randolph St., Suite 1030  
Chicago, IL 60606

American Snow Removal, Inc.  
825 Seegers Road  
Des Plaines, IL 60016

Re: *Laborers' Pension and Welfare v. Commercial Brick Paving,  
Inc., and John Biebrach*  
Case No.: 09 C 4617

Dear Sir or Madam:

Enclosed please find an Order for Wage Deduction ordering American Snow Removal to withhold and turn over wages from John Biebrach in accordance with 735 ILCS 5/12-808(e) until the judgment is satisfied or until a terminating event occurs as defined under 735 ILCS 5/12-808(b). Please note that the enclosed Order applies to all wages including, but not limited to, commissions. All checks can be made payable to the "Laborers' Pension and Welfare Funds" and delivered to my attention at my Chicago office. Please contact me if you have any questions regarding this matter.

Very truly yours,

LABORERS' PENSION AND WELFARE FUNDS

*Patrick T. Wallace*

Patrick T. Wallace  
PTW/kt  
Encl.

cc: Mr. Todd A. Miller



EMPLOYER PARTICIPANTS –  
Builders' Association, Employing Plasterers' Association, Underground Contractors' Association, Mason Contractors' Association, Concrete Contractors' Association, Wrecking Contractors, Concrete Products Employers, Lake County Illinois Employers, Illinois Road Builders Association, Bridge and Highway Structural Builders; i.e. all those who employ Laborers Engaged in the Building and Construction Industry.